

Docket No.: N3236.0036
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kenichi Asada

Application No.: 10/006,577

Confirmation No.: 4980

Filed: December 6, 2001

Art Unit: 2687

For: NOTIFICATION SYSTEM AND METHOD
FOR REMOTELY TURNING ON
CELLULAR PHONE BEING IN POWER-
OFF STATE AND CELLULAR PHONE
THEREOF

Examiner: F. E. Ramos

APPELLANT'S REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is pursuant to 37 CFR § 41.41(a), and is responsive to the Examiner's Answer mailed on July 31, 2006, in connection with the Appeal from the final rejection of claims 1-4, 6-10, 12 and 14 mailed July 14, 2005, in the above identified U.S. Patent application.

No fees are believed due for the filing of this Reply Brief. However, if any fee is due, the Patent Office is authorized to charge such fee to Deposit Account No. 50 2215.

Appellant wishes to thank the Examiner for the above-identified Examiner's Answer.

As described in Appellant's Appeal Brief, each of the claims under final rejection is patentable over the references cited by the Examiner. Appellant maintains each argument presented in the Brief.

In the Examiner's Answer, the Examiner presented several arguments in rebuttal of the positions taken in the Appeal Brief. Several of these rebuttal points are inaccurate and/or misleading and will be addressed below.

In the Appeal Brief, Appellant argued that in light of the specification as a whole, the only reasonable interpretation of the phrase in the Abstract of the Fukuda patent (U.S. Patent 6,169,905) "the remote station turns on and off a power supply of its reception unit on the basis of the control signal" is that the remote station turns on and off a power supply of its reception unit on the basis of *the timing* of the control signal. This interpretation is based on the fact that the only manner of turning on and off the power supply of the reception unit described in the specification is to turn the unit off and on based on *the timing* of receipt of the control signal. There is no teaching in Fukuda of any control signal that contains a command to turn on and off a power supply of the reception unit. The above arguments are incorporated herein by reference and maintained.

In the Examiner's Answer, the Examiner took the position that (1) the specification includes the abstract; and (2) other portions of the specification also support the Examiner's interpretation of the above-cited phrase from the Abstract. Appellant does not disagree that the specification includes the Abstract. Appellant strenuously disagrees that the other portions of the specification support the

Examiner's interpretation of the phrase in the Abstract. Again, the phrase in dispute in the Abstract is: "the remote station turns on and off a power supply of its reception unit on the basis of the control signal"

The Examiner contends that his interpretation is supported at col. 3, lines 58-60 which states: "The remote station turns on and off a power supply of its reception unit on the basis of the control signal"

The Examiner further contends that his interpretation is supported by col. 4, lines 11-13 which states: "the remote station turns on a power supply of its reception unit on the basis of the control signal"

As can be readily recognized, these phrases at these two portions of the specification are virtual literal repetitions of the phrase from the Abstract. Clearly, a literal repetition of a phrase does little or nothing to contribute to how the phrase is to be interpreted. Thus, contrary to the position taken in the Answer, this portion of Fukuda adds nothing new to support the Examiner's position as to how this phrase should be interpreted.

As can be seen from the foregoing, neither the portion of Fukuda at col. 3, lines 58-60 nor the portion at col. 4, lines 11-13 support the Examiner's interpretation of the phrase in question from the Abstract. They certainly do not teach "that the remote station is turned ON based on the content of the control signal," as the Examiner alleges at page 14, lines 1-2 of the Answer (emphasis in original).

Fukuda's col. 6, lines 42-49 are characterized by the Examiner as teaching "that the remote station discriminates the content of the control signal and performs the predetermined operation (turning ON) on the basis of the content of the received

control signal.” Examiner’s Answer at page 14, lines 4-6 (emphasis in original).

However, this characterization of this portion of Fukuda is misleading and inaccurate.

Col. 6, lines 42-49 actually read as follows:

If the received control signal is the control signal of the system to which the remote station belong, then the remote station discriminates the content of the control signal thus received. When the remote station determines that it is accessed by the connection request signal included in the control signal, this remote station perform *a* predetermined operation on the basis of the content of the determined control signal. (Emphasis added).

Contrary to the characterization in this portion in the Examiner’s Answer, this portion of Fukuda does *not* teach that the remote station “performs the predetermined operation (turning ON) on the basis of the content of the received control signal.” It only states the unsurprising fact that the contents of a control signal can cause the remote station receiving that control signal to perform *a* predetermined operation, and does not specify what the operation is. It certainly does not teach or even remotely suggest that the predetermined operation of the control signal is to turn on or off the power of the remote station. In fact, as has been shown with particularity in the Appellant’s Appeal Brief, there is no teaching in any portion of the entirety of Fukuda’s specification that the control signal itself includes any instruction to turn on or off the remote station.

As clearly shown and explained in Appellant’s Brief, Fukuda’s specification only shows one way in which the reception unit of the remote station is turned on or off “on the basis” of the control signal, and that is to energize the reception unit on the basis of the timing of the control signals. Fukuda states:

In the reception standby mode of each of the remote stations 4, 5, . . . , the remote stations 4, 5, . . . , energize their reception units (radio units 12 or the like) *only during the period of the timing at which a series of control signals is successively transmitted*. As shown in FIG. 9D, the power supply of the reception unit is turned on only during a period T_{ON} in which the transmission of the control signal from the third master station 3 is ended since the transmission of the control signal from the first (main) master station 1 was started. Col. 8, lines 8-17 (emphasis added).

Fukuda goes on to say:

However, the power supply of the circuit, such as the radio unit 12 or the like necessary for the reception, need not be set in the on-state constantly but may be turned on at every predetermined cycle during the above-mentioned period T_{ON} , thereby the power consumption needed in the reception standby mode of the remote stations being reduced considerably. Col. 8, lines 45-51.

The energizing of the reception units on the basis of *the timing* of receipt of control signals (i.e. before receipt of the control signals), as described in the quoted portions of Fukuda, is the only description in Fukuda's "Description of the Invention" that discusses turning ON the reception units. Moreover, this description is consistent with Appellant's interpretation of the Abstract.

On the other hand, the Examiner's interpretation of the Abstract is inconsistent with the specification at least because there is no teaching anywhere in Fukuda that the control signal includes any command to turn ON or OFF the reception unit of the remote station. Moreover, as was demonstrated above, the portions of Fukuda alleged in the Examiner's Answer to support his interpretation of the Abstract do not in any way support that interpretation.

Finally, it is apparent that the Examiner has misunderstood Appellant's argument in the first full paragraph on page 14 of Appellant's Brief. Again, the

Examiner is arguing the phrase “The remote station turns on and off a power supply of its reception unit on the basis of the control signal” should be interpreted such that it is the content of the control signal that “turns on and off a power supply of its reception unit” Clearly, the Examiner’s interpretation is untenable as the reception unit is completely incapable of receiving any control signals if it not already turned on. Therefore, the command that “**turns on** and off a power supply of its reception unit” cannot be contained in the content of the control signal. Again, without being turned on already (prior to the reception of the control signal) the reception unit cannot receive the control signal. The Examiner’s interpretation of the phrase “the remote station turns on and off a power supply of its reception unit on the basis of the control signal” should therefore be rejected as it is technically untenable.

For at least the foregoing reasons, the arguments provided in the Examiner’s Answer are not technically correct.

The other specific arguments relating to the patentability of the claims set forth in the Appeal Brief are maintained.

For at least the reasons set forth above, and those identified in the Appeal Brief, Appellant respectfully submits that the Final Office Action and the Examiner's Answer fails to even state a prima facie case under Section 103. Reversal of the final rejection of claims 1-4, 6-10, 12 and 14 is accordingly respectfully requested.

Dated: September 29, 2006

Respectfully submitted,

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